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GOVERNOR



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STATE OF HAWAII

DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
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Statement of
Chad K. Taniguchi
Hawaii Public Housing Authority
Before the

HOUSE COMMITTEE ON HOUSING

February 4, 2009 9:00 a.m.
Room 325, Hawaii State Capitol

In consideration of
H.B. 1521
RELATING TO PUBLIC HOUSING

The Hawaii Public Housing Authority (HPHA) supports the intent of H.B. 1521, which shortens time for notice, meeting, and grievance requirements for violations with rental agreements, leases, violation of rules, or maintenance in public housing; and streamlines the eviction process in public housing.

HPHA supports Section 2 of the measure, which provides for continued use of an Eviction Board on each island to conduct eviction hearings.

However, we do not support Section 1. Our agency prefers the method used in H.B. 1440 to streamline the eviction process. Merely shortening some of the waiting periods and eliminating minor notice requirements does not substantially shorten the overall length of time it takes to accomplish an eviction. There are still too many steps in the process, and redundant opportunities for the tenant to explain or cure their noncompliance. H.B. 1440 eliminates some of the redundant steps entirely and provides a truly effective process while maintaining due process. HPHA feels the streamlining method in H.B. 1440 will more effectively streamline the process and result in more quickly renting units to responsible tenants.

Should this measure be passed out of committee, however, we ask that Section 1 be amended to delete the word "delinquency" wherever it appears and the word "noncompliance" be substituted. It appears that such was the intent in drafting the bill but that two instances were missed in the first paragraph.

We respectfully request that H.B. 1441, modified to retain the Evictions Boards, be the vehicle for improving the evictions process.

OFFERING COMMENTS ON
HB1521 - RELATING TO PUBLIC HOUSING

February 4, 2009 at 9:00 a.m.

The Legal Aid Society of Hawaii hereby provides comments to the House Committee on Housing on HB1521 – Relating to Public Housing.

The Legal Aid Society of Hawaii provides free legal services to the low-income population of the State of Hawaii. In addition to providing services to clients who currently reside in public housing, we also assist individuals who are on the waiting list to gain access to public housing. In 2008, we received over three hundred calls requesting assistance on public housing matters and represented approximately thirty or 10% of these callers in administrative and/or court hearings.

We agree that it is not in the interest of public housing residents or families on the waiting list to have a lengthy eviction process in public housing. However, federal law provides clear guidelines on what is a reasonable time frame for tenant notice and response.

Background

In the 2002 Legislative Session, the Legislature considered Senate Bill No. 331. The bill's purpose was "to streamline the administrative eviction process without impairing the tenant's due process rights." Prior to passage of Senate Bill 331, the eviction process provided an opportunity for three administrative hearings before a tenant was evicted: a grievance hearing; an eviction hearing; and an administrative appeal. If the tenant was unsuccessful at any of the previous stages, he or she could then appeal to the Circuit Court with a chapter 91 appeal. Under this lengthy process, it had taken up to eighteen months before the Housing and Community Development Corporation of Hawaii (HCDCH) now known as the Hawai'i Public Housing Authority (HPHA) could evict a tenant from public housing. See S.B. NO. 331, S.D. 2, H.D. 2, C.D. 1. Testimony also showed at that time that HCDCH's tenant accounts receivable at the time was approximately \$1.2 million, attributable to the accrual of rent during the lengthy eviction process. See STAND. COM. REP. NO. 2091.

The same considerations are no less prevalent today, especially since nothing has occurred since the time the report was issued that would justify the repeal of the current statute; a statute which was supported by HCDCH, resident groups, and other members of the community and was refined by over a year's worth of thought, discussion, and debate in the Legislature.

The Current Statute is Not Responsible for the Delays in the Eviction Process

There is nothing in the current statute that requires or even encourages a one-year eviction process. HPHA has not pointed to anything in the statute that is responsible for the delays. Admittedly, the statute contains notice requirements and timelines that must be followed, but many of the timelines in the statute are imposed by federal requirements. Furthermore, an eviction done properly under the statute could be easily done within a three month period if the authority timely schedules all meetings.

The current statute meets federal guidelines which protect the due process rights of tenants. These due process rights are guaranteed through the notice procedures and the administrative grievance process. The

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proposed statute violates these due process rights by eliminating the adequate time frames which are mandated by federal law.

The following is a general outline of the federally mandated grievance process:

- Federal law states that a tenant must have at least 14 business days written notice before an informal hearing can be held. Changing this period to 5 days is a violation of federal statute
- The written notice must explain the tenant's due process rights and must explain the eviction process. The current statute Section 1 (b) meets the notice requirements mandated by the federal government.
- Once the tenant receives written notice an informal hearing is scheduled. Federal law does not allow a local PHA to omit the informal hearing stage from the grievance process. However, if the tenant fails to attend the informal hearing, he has waived this hearing.
- The authority must provide the tenant with a written decision from the informal hearing. Once this decision is received, the tenant has a "reasonable time" (10-14 days) to file a grievance. Failure to file a grievance is deemed a waiver. Once the grievance is requested, the authority is to schedule a formal hearing.
- The formal grievance hearing can be held before a hearings officer rather than an eviction board. Once the formal hearing is held, the tenant has the opportunity to pursue a Chapter 91 appeal.

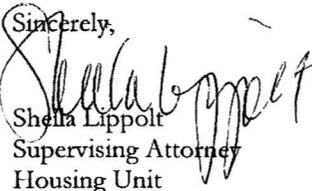
The current statute meets federal statute, the proposed changes in HB 1521 will violate the federal statute. Tenants must be given a "reasonable period" of notice. Generally, 10-14 days is considered a "reasonable period."

Conclusion

Clearly there are severe problems with a public housing eviction process that takes an entire year to evict a tenant. However, it is equally clear that the problem is not attributable to the statute that currently governs evictions. HPHA may claim that the statute is responsible for the lengthy eviction process. However, the only thing that will prevent public housing evictions from proceeding in a timely manner is HPHA's internal procedures. Nothing in the statute encourages a lengthy eviction process. To expedite the grievance process HPHA needs to make internal changes – repealing the statute is not the solution. Not only will it not reduce the length of the eviction process, but also HB 1440 needlessly repeals important provisions that promote the prompt resolution of problems, the curing of misunderstandings and mistakes that need not lead to eviction, and that inform families in public housing of their rights. For these reasons, we respectfully request that the Committee oppose HB 1440.

Thank you for this opportunity to testify.

Sincerely,


Sheila Lippolt
Supervising Attorney
Housing Unit



BY EMAIL: HSGtestimony@capitol.hawaii.gov

Committee: Committee on Housing

Hearing Date/Time: Wednesday, February 4, 2009, 9:00 a.m.

Place: Room 325

Re: *Testimony of the ACLU of Hawaii in Opposition to H.B. 1521, Relating to Public Housing*

Dear Chair Cabanilla and Members of the Committee on Housing:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in opposition to H.B. 1521, which seeks to shorten the time for notice, meeting and grievance requirements for violations with rental agreements, leases, violation of rules, or maintenance in public housing.

Eliminating these requirements will likely result in the violation of tenants’ constitutional due process rights and the eviction of innocent individuals. The current requirements appropriately balance public housing tenants’ constitutional due process rights with the needs of the Hawaii Public Housing Authority and should be maintained.

Further, we should not be considering ways to make it easier to evict public housing tenants, some of our most vulnerable citizens, in this time of high and rising unemployment. Evicting these already low-income individuals will stretch our homeless resources to the breaking point. Hawaii would be better served by providing assistance and due process to individuals threatened with eviction.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

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